

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

MICHAEL A. GERSHAM,

Case No.: 3:18-cv-00498-MMD-WGC

**Plaintiff**

Order

V.

Caldwell-Barr, et. al.,

## Defendants

On June 8, 2020, Plaintiff filed a notice of change of address indicating he was housed at NCK Correctional Center (LCC). (ECF No. 26.) On October 12, 2020, Defendant filed her motion for summary judgment (ECF No. 30), which indicates it was electronically served on Plaintiff via the LCC law librarian. (ECF No. 30 at 17.) The proof of electronic service of the motion for summary judgment lists an email address of lcclawlibrary@doc.nv.gov. (*Id.*) Plaintiff also filed a motion for leave to file under seal Exhibits A-K in support of the motion for summary judgment. (ECF No. 31.) The proof of service states that the motion for leave to file under seal Exhibits A-K was electronically served on Plaintiff at LCC, however, it lists an email address as nncclawlibrary@doc.nv.gov. (ECF No. 31 at 4.)

Plaintiff has filed a response to the motion for leave to file those exhibits under seal, so he nevertheless received the motion. (*See* ECF No. 37.) The motion for leave to file the exhibits under seal states that the exhibits would be mailed to the *NNCC* warden so that Plaintiff can review the exhibits. (ECF No. 31 at 2:21-23.) At that time, Plaintiff was housed at LCC, and not NNCC. In Plaintiff's filings, he states that the defense mailed the exhibits to the wrong facility, and Plaintiff did not have access to them. (ECF No. 37 at 4; ECF No. 40 at 2.) In her reply brief,

1 Defendant states that the exhibits were mailed to the institution concurrent with the filing of the  
2 motion and therefore, Plaintiff has access to the exhibits. (ECF No. 42 at 2:8-11.) The reply  
3 references an Exhibit 1, but it is unclear what exhibit the reply refers to as there is no Exhibit 1 to  
4 the reply brief.

5 Defendant has until **5:00 p.m. on Friday May 14, 2021** to file either a proof of service or  
6 declaration demonstrating that the sealed Exhibits A-K were sent to the warden at LCC, where  
7 Plaintiff was housed when the motion was filed. Alternatively, if the exhibits were not sent to the  
8 warden at LCC, Defendant shall so notify the court, and the court will issue an order requiring  
9 service of the exhibits on Plaintiff at his current address of record, and the court will give  
10 Plaintiff time to file a supplemental response to Defendant's motion for summary judgment.

11 The court notes that Plaintiff has filed another notice of change of address indicating that  
12 he has been released from prison. The Clerk shall serve Plaintiff with a copy of this order at his  
13 current address of record on Arlington Avenue in Reno.

14 | IT IS SO ORDERED.

15 | Dated: May 11, 2021

William G. Cobb  
William G. Cobb  
United States Magistrate Judge